

Application No.: 10/646,070
Resp to Restriction Requirement of 10/15/04

11**Docket No.: 546322000303**

REMARKS

Reconsideration is respectfully requested. Claims 48-49, 51, 53, 82-85 and 99, have been amended. After entry of this amendment, claims 48-106 will be pending.

The Examiner has required restriction between claims 48-91 and claims 92-106, which the Examiner has termed Group I and Group 2, respectively. Group I claims are drawn to an isolated genetic construct, and Group 2 claims are drawn to a method of treating a human cell administering the genetic construct of Group I. The Examiner has stated that the two groups describe two distinct inventions related as product and process of use.

Applicants thank the Examiner for the acknowledgement that in the event that the product claims are deemed allowable, determining patentability of the process claims that depend from or otherwise include all of the limitations of the allowable product claim does not impose an undue burden. However, the Examiner further indicates that until the product is deemed allowable, search and examination of the process claims with the product claims imposes an undue burden on the Office.

Applicants elect Group I, 48-91, with traverse, for further prosecution in this matter. Applicants respectfully assert that it would not be an undue burden to examine the process claims with the product claims at this time. Applicants respectfully request that the claims of Group II be rejoined upon an indication of allowability of the claims of Group I.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of

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such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing (546322000303). However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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